IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7792 OF 2004.

Shekhar M.Poojari
Prop: Shree Ambika Hotel. ... Petitioner.

versu.

The State of Maharashtra & ors. .... Respondents.

Ms.Rakha Tawade for the Petitioner.

Shri D.A.Patil, A.G.P.for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 9th December, 2004.

P.C.:

1. Rule. The learned A.G.P. waives service. By consent taken up for hearing forthwith.

2. The Petitioner had made an application before the Respondent No.2 for grant of licence. The said application was rejected. The Appeal preferred against the said order by the Petitioner before the State Government came to be dismissed by the State Government. Hence this petition has been filed under Article 227 of the Constitution of India.

3. After having heard the Counsel appearing for the parties and after perusing the impugned order, I find that the Appeal was decided in absence of the Petitioner. The impugned order itself records that earlier the said appeal was heard by the then Deputy Chief Minister on

17th October 2003. However, the order could not be passed and hence the appeal was taken up for fresh hearing. Considering the facts and circumstances of the case, the impugned order of the Appellate Authority deserves to be set aside and the Appeal deserved to be remanded to the Appellate Authority for fresh hearing.

4. Hence I pass the following order:

(i) The impugned order dated 7th July 2004 is quashed and set aside.

(ii) The Appeal preferred by the Petitioner bearing No.REH 09/2003/129/visha.5 is remanded to the Appellate Authority for fresh hearing.

(iii) The Appellate Authority will give sufficient advance notice of the date fixed for hearing to the Petitioner.

(iv) After hearing the Petitioner the Appeal will be decided afresh. The Appellate Authority is directed to hear and decide the Appeal as expeditiously as possible preferably within a period of four months from the date of production of the authenticated copy of this order.

(v) All questions on merit are kept open.

(vi) Rule is partly made absolute in the above terms with no order as to costs.

(vi) Parties and the concerned authority to act on the authenticated copy of this order.

Judge.